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March 2, 2021

District Judge Kenneth M. Karas
United States District Court
Southern District of New York
300 Quarropas St
White Plains, NY 10601

Re: 7:20-cv-10931-KMK
Galinsky v. King's Hawaiian LLC

Dear District Judge Karas:

This office represents the plaintiff. On Tuesday, February 23, 2021, ECF No. 8, defendant served and filed a letter seeking a pre-motion conference to dismiss plaintiff's complaint pursuant to Fed. R. Civ. P. 12(b)(1)-(2), (6). In accordance with your Honor's Individual Rules of Practice, Rule II(A) ("Individual Rules"), plaintiff is required to serve and file a letter response within seven days.

Consistent with the rules and practices of the Court, which typically consider service of a defendant's notice of motion to dismiss timely service under Rule 12 if served within the time required by the Rule, plaintiff will "amend its pleading once as a matter of course" within 21 days "after service of [defendant's] motion under Rule 12(b)." Fed. R. Civ. P. 15(a)(1)(B); *Solis v. McAleenan*, No. 19-cv-5383 (S.D.N.Y. Dec. 5, 2019) ("Under Rule 15(a)(1)(B), a plaintiff has 21 days after the service of a motion under Rule 12(b) to amend the complaint once as a matter of course."); *Martinez v. LVNV Funding, LLC*, No. 14-cv-00677, 2016 WL 5719718, at *3 (E.D.N.Y. Sept. 30, 2016); *M.E.S., Inc. v. Liberty Mut. Sur. Group.*, No. 10-cv-0798, 2014 WL 46622 (E.D.N.Y. Jan. 6, 2014), *2 (noting that a plaintiff's amendment as of right in response to defendant's pre-motion letter seeking dismissal "allow[s] for the more efficient use of the Court's time and resources because the Court need only meet with the Parties once...and the need for the motion may be obviated if the amended pleading deals with Defendants' concerns.").

Plaintiff intends to file an amended complaint on or before Tuesday, March 16, 2021, 21 days after defendant's pre-motion letter to dismiss was served. Fed. R. Civ. P. 6(a)(1)(A) (excluding "the day of the event that triggers the period"); Fed. R. Civ. P. 15(a)(1)(B). Plaintiff expects to address the issues raised in defendant's letter. Thank you.

Respectfully submitted,

/s/Spencer Sheehan

Certificate of Service

I certify that on March 2, 2021, I served and/or transmitted the foregoing by the method below to the persons or entities indicated, at their last known address of record (blank where not applicable).

	CM/ECF	First-Class Mail	Email	Fax
Defendant's Counsel	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Plaintiff's Counsel	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Courtesy Copy to Court	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

/s/ Spencer Sheehan